UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	
CYRUS II, LP	§	CASE NO. 05-39857-H1-7
BAHAR DEVELOPMENT, INC.	§	(Jointly Administered)
MONDONA RAFIZADEH, *ET AL.*,	§	
	§	
Debtors.	§	Chapter 7
	§	
RODNEY D. TOW,	§	
AS THE CHAPTER 7 TRUSTEE FOR	§	
CYRUS II, L.P., *ET AL.*	§	
	§	
Plaintiffs,	§	ADVERSARY PROCEEDING
	§	NO. 07-03301
vs.	§	
	§	
SCHUMANN RAFIZADEH, *ET AL.*,	§	
	§	
Defendants.	§	

ORIX CAPITAL MARKETS, LLC'S SUPPLEMENTAL RESPONSE TO SUPER FUTURE EQUITIES, INC.'S EMERGENCY MOTION FOR SANCTIONS AGAINST ORIX CAPITAL MARKETS, LLC

ORIX Capital Markets, L.L.C., as Special Servicer for Wells Fargo Bank, N.A., Trustee of the MLMI 1999-C1 Trust ("ORIX"), files this Supplemental Response to Super Future Equities, Inc.'s Emergency Motion for Sanctions Against ORIX Capital Markets, LLC (the "Motion for Sanctions"), and respectfully states as follows:

I. PROCEDURAL BACKGROUND

1. On November 26, 2007, Super Future Equities, Inc. ("SFE") filed its Emergency Motion for Sanctions Against ORIX Capital Markets, LLC (the "Motion for Sanctions") (Docket No. 357) relating to SFE's Motion to Compel Production of

Documents regarding the First Request for Production (the "SFE Motion to Compel") (Docket No. 329).

2. On November 29, 2007, ORIX filed its Response to SFE's Motion for Sanctions ("ORIX's Response") (Docket No. 369).

3. On December 3, 2007, after being notified by this Court of an error in the filing of the Motion for Sanctions, SFE refiled the same Motion for Sanctions (Docket No. 374).[1] SFE filed its identical Motion for Sanctions despite knowing that: (1) ORIX produced over 100,000 pages of production responsive to SFE's requests; (2) approximately 17,000+ pages of production sat at ORIX's vendor for SFE to review and copy (which ORIX later produced at its own expense); (3) all of ORIX's confidential documents sat at ORIX's vendor waiting for SFE to execute the Agreed Protective Order (which ORIX will later produce at its own expense); and (4) ORIX continuously updated and transmitted to SFE's counsel a chart identifying the documents produced and to which requests the documents were responsive.

II. SUPPLEMENT

A. ORIX has produced all documents requested in SFE's Requests.

1. UBS depositions covering 106 MLMI loans.

4. SFE claims that ORIX "has produced grossly redacted versions of the transcripts of previous depositions. . . ."[2] SFE is incorrect. ORIX has produced every ORIX employee or former employee deposition without redactions – very few having

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[1] Docket No. 357 contains the following notation "THIS ENTRY WAS FILED INCORRECTLY. ATTORNEY CONTACTED."

[2] Motion for Sanctions para. 7.

any confidentiality designations. ORIX has been advised that UBS will be producing its unredacted depositions to SFE upon SFE's execution of the Agreed Protective Order.

5. SFE also claims that ORIX has produced "none of the deposition exhibits..."[3] This statement is also incorrect. ORIX has produced all of the deposition exhibits from the UBS Litigation that were not marked with a UBS bates label. ORIX has been advised that UBS will be producing its exhibits to SFE upon SFE's execution of the Agreed Protective Order.

6. SFE also incorrectly claims that ORIX has not produced any deposition videos. Because SFE did not wish to pay for a vendor to copy the videos, ORIX has – at SFE's counsel's request – delivered all of the UBS Litigation deposition videos that were not employees or former employees of UBS to the Houston office of ORIX's counsel, Munsch Hardt Kopf & Harr, P.C., so that SFE's counsel can personally review the tapes and make copies. ORIX has been advised that UBS will be producing its videos to SFE upon SFE's execution of the Agreed Protective Order.

2. Love Funding depositions.

7. SFE claims that ORIX "has produced no documents at all."[4] Contrary to that assertion, ORIX has produced all of the depositions (with the corresponding videos) of its employees or former employees in the Love Funding Action.[5] In addition, ORIX will be producing the depositions and corresponding videos of the UBS and Love Funding employees with UBS's and Love Funding's consent upon SFE's execution of the Agreed Protective Order.

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[3] Motion for Sanctions para. 7.

[4] Motion for Sanctions para. 8.

[5] Rule 34 Chart at 8, OCM-SFE-BK096831-097144.

3. Moneys, interest, and fees paid to ORIX over 8 years for servicing the MLMI trust.

8. SFE claims that ORIX "has indicated it will produce Distribution Reports (not [sic] date yet given) and a verified spread sheet, not yet produced."[6] In addition to the documents identified in ORIX's Response, ORIX will be producing upon SFE's execution of the Agreed Protective Order documents showing: (a) repayment of principal and interest (P&I) advances; (b) repayment of litigation expenses; (c) repayment of other advances; (d) interest paid on P&I advances, advances for litigation expenses, and other servicing advances; (e) fees for serving as master servicer; (f) fees for serving as special servicer, and (g) any other fees or reimbursements of expenses.

4. ORIX's Policies and Procedures.

9. SFE claims that ORIX has not produced any policies and procedures and states that "SFE cannot understand how every page of a document approximately 500 pages in length can be confidential...."[7] In addition to the non-confidential policies and procedures already produced, ORIX will be producing all of its policies and procedures upon SFE's execution of the Agreed Protective Order.

5. Ultimate recipient of the UBS settlement funds and payments to ORIX therefrom.

10. SFE claims that "[n]o documents responsive to this request have been produced."[8] In addition to the non-confidential documents evidencing ORIX's receipt of the settlement funds, ORIX will be producing the bank statement showing the funds coming into ORIX upon SFE's execution of the Agreed Protective Order.

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[6] The Motion for Sanctions para. 10.

[7] Motion for Sanctions para. 12.

[8] Motion for Sanctions para. 16.

III. CONCLUSION

Based on the foregoing, ORIX respectfully requests the Court to deny the Motion for Sanctions. ORIX also requests such other and further relief, both at law and in equity, as is just.

DATED: December 7, 2007.

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, PC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion was served on the 7th day of December 2007, by United States Mail, first class, postage prepaid, to all parties on the Service List attached hereto and electronically by the Court's ECF system to all parties registered to receive such service.

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